

CITY OF TIGARD, OREGON

ORDINANCE NO. 05-15

AN ORDINANCE AMENDING SECTION 3.24.090 OF THE TIGARD MUNICIPAL CODE CLARIFYING THAT CITY SYSTEM DEVELOPMENT CHARGES ARE ASSESSED BASED ON THE FEE IN EFFECT AT THE TIME OF PERMIT APPLICATION

WHEREAS, the assessment date of System Development Charges has been inconsistent and has been assessed differently over the years; and

WHEREAS, the Tigard Municipal Code has been interpreted differently in assessing these charges; and

WHEREAS, other City fees that generate the assessment of such fees are based on application date; and

WHEREAS, it is necessary to have consistent fee methodology for City fees.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Section 3.24.090 of the Tigard Municipal Code is amended as shown in Exhibit A with deleted language shown as ~~struck through~~ text and added language shown as underlined text.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 8<sup>th</sup> day of November, 2005.

Catherine Wheatley  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 8<sup>th</sup> day of November, 2005.

C. A. Dirksen  
Craig Dirksen, Mayor

Approved as to form:

Justin V. Penner  
City Attorney

11.8.05  
Date

**Exhibit A – Deleted language shown as ~~strikethrough~~ text and added language shown as underlined text.**

**Chapter 3.24 SYSTEMS  
DEVELOPMENT CHARGES.**

**Sections:**

- 3.24.010 Purpose.
- 3.24.020 Scope.
- 3.24.030 Definitions.
- 3.24.040 System Development Charge  
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- 3.24.100 Installment Payment.
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Revenue.
- 3.24.150 Appeal Procedure.
- 3.24.160 Prohibited Connection.
- 3.24.170 Penalty.
- 3.24.180 Construction.

**3.24.010 Purpose.**

This Chapter is intended to provide authorization for system development charges for capital improvements pursuant to ORS Revised Statutes 223.297 through 223.314 for the purpose of creating a source of funds to pay for the installation, construction, and extension of capital improvements. These charges shall be collected at the time of the development of properties which increase the use of capital improvements and generate a need for those facilities. (Ord. 95-28; Ord. 93-33).

**3.24.020 Scope.**

The system development charges imposed by this Chapter are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord. 93-33).

**3.24.030 Definitions.**

As used in this chapter: "Capital Improvements" means facilities or assets used for:

- (1) Water supply, treatment and distribution;
- (2) Sewage and wastewater collection, transmission, treatment and disposal;
- (3) Drainage and flood control;
- (4) Transportation; or
- (5) Parks and recreation. (Ord. 95-28; Ord. 93-33).

**3.24.040 System Development Charge  
Imposed; Method For  
Establishment Created.**

(1) Unless otherwise exempted by the provisions of this Chapter or other local or state law, a systems development charge is imposed upon all development within the City, upon the act of making a connection to the City water or sewer system within the City, upon all development outside the boundary of the City that connects to or otherwise uses the sewer or water facilities of the City, and whenever the City Council has authorized an intergovernmental agreement which permits the City to impose a parks system development charge outside the City limits. (Ord. 95-28; Ord. 93-33).

**3.24.050 Methodology.**

(1) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

**Exhibit A – Deleted language shown as ~~strikethrough~~ text and added language shown as underlined text.**

(2) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the Council.

(3) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution. (Ord. 93-33).

**3.24.060 Authorized Expenditures.**

(1) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(2) (a) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to demands created by current or projected development.

(2) (b) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Systems Development Charge Funding Project Plan adopted by the City pursuant to Section 3.24.070 of this Chapter.

(3) Notwithstanding subsections (1) and (2) of this Section, system development charge revenues may be expended on the direct costs of complying with the provisions of this Chapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds. (Ord. 93-33).

**3.24.070 Expenditure Restrictions.**

(1) System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(2) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 93-33).

**3.24.080 Project Plan.**

The Council shall adopt by resolution the Systems Development Charge Funds Project Plan. This Plan:

(1) Lists the capital improvements that may be funded with improvement fee revenues; and

(2) Lists the estimated cost and time of construction of each improvement. In adopting this plan the City Council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this Section. The City may modify this project plan at any time through the adoption of an appropriate resolution. There may be a separate plan for each system, or the plan may include improvements from more than one system. (Ord. 93-33).

**3.24.090 Collection of Charge.**

(1) The systems development charge is payable upon issuance of:

(a) A building permit;

(b) A development permit for development not requiring the issuance of a building permit;

(c) A permit to connect to the water system; or

(d) A permit to connect to the sewer system.

(2) The system development fee charge for subsection (1) shall be assessed at the rate in effect at the time of permit application. For property annexed to the City after application for but prior to issuance of a building permit, the system development charge shall be assessed at the rate payable in the City at the time of permit application.

**Exhibit A – Deleted language shown as ~~strikethrough~~ text and added language shown as underlined text.**

~~(2)~~ (3) If development is commenced or connection is made to the water system, sewer system or storm sewer system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

~~(3)~~ (4) The City Manager or the designee shall collect the applicable system development charge from the permittee.

~~(4)~~ (5) The City Manager or the designee shall not issue such permit or allow connection until the charge has been paid in full, unless provision for installment payments has been made pursuant to Section 3.24.100 of this Chapter, or unless an exemption is granted pursuant to Section 3.24.110 of this Chapter. (Ord. 03-08, Ord. 95-28; Ord. 93-33).

**(remainder of Chapter text unchanged)**